

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-2054

KOKOU MAGBEDE TOUGNON,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A95-263-499)

Submitted: April 27, 2005

Decided: May 12, 2005

Before NIEMEYER, MICHAEL, and MOTZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Randall L. Johnson, JOHNSON & ASSOCIATES, P.C., Arlington, Virginia, for Petitioner. Peter D. Keisler, Assistant Attorney General, James A. Hunolt, Senior Litigation Counsel, Julia A. Jones, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Kokou Magbede Tougnon, a native and citizen of Togo, petitions for review of an order of the Board of Immigration Appeals (Board) affirming without opinion the Immigration Judge's (IJ) denial of his applications for asylum, withholding of removal, and protection under the Convention Against Torture.

To obtain reversal of a determination denying eligibility for relief, an alien "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." INS v. Elias-Zacarias, 502 U.S. 478, 483-84 (1992). We have reviewed the evidence of record and conclude that Tougnon fails to show that the evidence compels a contrary result. Having failed to qualify for asylum, Tougnon cannot meet the higher standard to qualify for withholding of removal. Chen v. INS, 195 F.3d 198, 205 (4th Cir. 1999); INS v. Cardoza-Fonseca, 480 U.S. 421, 430 (1987).

We also uphold the IJ's finding that Tougnon failed to establish eligibility for protection under the Convention Against Torture. See 8 C.F.R. § 1208.16(c)(2) (2004). Finally, we reject Tougnon's claim that he was denied due process by the Board's use of its summary affirmance procedure to affirm the decision of the IJ. See Blanco de Belbruno v. Ashcroft, 362 F.3d 272, 280-83 (4th Cir. 2004).

Accordingly, we grant leave to proceed on appeal in forma pauperis and deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED